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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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SEP 14 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:)
)
Petition for Rulemaking to Amend Part 32) RM-9341
of the Commission's Rules, Uniform System of)
Accounts for Class A and Class B Telephone)
Companies to Adopt the Accounting for)
Software Required by Statement of Position 98-1)

**COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) hereby files these comments on the Petition for Rulemaking filed jointly by BellSouth Corporation, BellSouth Telecommunications Inc. and the Bell Atlantic Telephone Companies (Petitioners) in the above-captioned proceeding.¹ As the principal trade association of the local exchange carrier (LEC) industry, USTA comprises approximately 1,200 carriers.

The Petition for Rulemaking seeks modification of the Commission's existing accounting rules found in Part 32 of the Commission's rules² to accommodate recent Generally Accepted Accounting Principles (GAAP) changes regarding the accounting of software costs, which are to become effective December 15, 1998. Specifically, those changes will result in software for internal use being capitalized, rather than expensed.

¹The Commission issued a Public Notice on August 13, 1998 seeking comments on the Petition by September 14, 1998 and reply comments by September 28, 1998, DA 98-1625.

²47 CFR Part 32.

Petitioners are requesting that the Commission's rules be changed so that the regulatory accounting treatment of internal use software is consistent with this recent GAAP change.

They also seek a waiver of the requirement to perform a revenue requirement study.³

The proposed changes would affect all Class A and Class B LECs, most of which are USTA members. The Commission sought comment on several specific issues in its Public Notice. USTA respectfully submits the following comments in support of the Petition.

I. SOFTWARE SHOULD RECEIVE INTANGIBLE TREATMENT.

As Petitioners have demonstrated, software is an intangible asset, since it generally represents "the right to use, produce, sell or operate something."⁴ Pursuant to licensing agreements, the software user does not own the software. Instead, the user purchases a right to use the software. Software developed internally is owned but is similar to purchased software in that it "has no physical quality other than the medium, i.e., tapes or disks on which the software is stored."⁵ Thus, all capitalizable software cost should be classified as an intangible asset.

II. ADDITIONAL AMORTIZATION REGULATIONS FOR SOFTWARE ARE NOT NECESSARY.

There is no need for the Commission to prescribe amortization period(s). The Commission should rely on its existing rule in Part 32 at § 32.2000(h), Amortization

³47 CFR §32.16

⁴Petition at 5.

⁵Petition at 4, 9.

Accounting, which states that “[t]he costs of each type of asset shall be amortized on the basis of the estimated life of that asset...A reasonable estimate of the useful life may be based on the upper or lower limits even though a fixed existence is not determinable. It further states that, “[i]n the event any estimated useful life becomes no longer applicable, a revised useful life shall be determined...”

SOP 98-1 provides similar guidance for determining the period of time over which capitalized software costs should be amortized. Specifically, at paragraph 37, SOP 98-1 states that “In determining and periodically reassessing the estimated useful life over which the costs incurred for internal-use computer software will be amortized, entities should consider the effects of obsolescence, technology, competition and other economic factors. Entities should consider rapid changes that may be occurring in the development of software products, software operating systems, or computer hardware and whether management intends to replace any technologically inferior software or hardware.”

Both the current Commission rules and SOP 98-1 are in alignment and conclude that each entity is better able to determine an appropriate useful life. There is no need for the Commission to define any specific amortization periods.

III. THE ACCOUNTING CHANGE DOES NOT NECESSITATE AN EXOGENOUS PRICE CAP ADJUSTMENT.

In order to qualify as an economic cost change, and one that is subject to an exogenous price cap adjustment, a carrier must demonstrate that cash flows have changed due to the accounting change.⁶ This software accounting change does not have an impact

⁶First Report and Order, CC Docket No. 94-1, Price Cap Performance Review of Local Exchange Carriers, 10 FCC Rcd 8961, 9089-9092 (1995).

on cash flows. The carrier is required to pay the same price for the software, i.e., the cash outflow, whether or not the software is capitalized or expensed. No exogenous price cap adjustment is required.

IV. THE COMMISSION SHOULD WAIVE THE REVENUE REQUIREMENT STUDY.

Petitioners have shown that special circumstances exist which warrant a waiver of the Commission's requirement in § 32.16(a) of the rules for a revenue requirement study.⁷ Therefore, USTA agrees with Petitioners that a revenue requirement study is not necessary in this instance and urges the Commission to grant carriers a waiver of this study for the adoption of the new software accounting standard.

V. THIS PROCESS SUBSTANTIATES THE NEED FOR MODIFICATION OF § 32.16 OF THE RULES.

The fact that this petition requesting a rulemaking proceeding to adopt a change in GAAP and the request for a revenue requirement study waiver are needed, demonstrates that a change in Part 32 is overdue. Such proceedings extract cost, time and effort on the part of the Commission and the carriers that could be avoided. Therefore, the Commission should streamline Part 32 so that pre-approval to apply new Generally Accepted Accounting Standards which are prescribed by the Financial Accounting Standards Board is no longer required.⁸ Also, the Commission should eliminate the requirement for filing a revenue requirement study in order to adopt such standards.

⁷Petition at 6.

⁸See Comments of USTA in the 1998 Biennial Review of Accounting and Cost Allocation Requirements filed July 17, 1998, p.38, CC Docket No. 98-81.

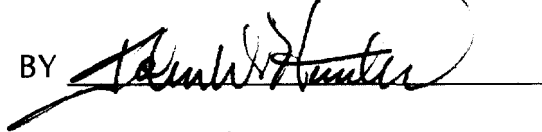
VI. CONCLUSION

For the reasons stated above and in the Petition, the Commission should allow telecommunications companies to adopt the accounting for internal use software required by Financial Accounting Standard of Position 98-1. Telecommunications companies should be allowed to record capitalizable software costs as an intangible asset, consistent with the guidance provided by SOP 98-1. In addition, telecommunications companies should determine the amortization period based on the estimated life of the software, and without an exogenous price cap adjustment. In addition, the Commission should grant carriers waivers of the revenue requirement study.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

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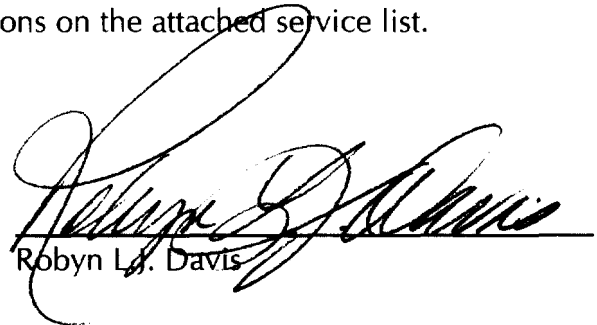
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September 14, 1998

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on September 14, 1998 copies of the Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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